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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/605,148

06/23/2000

Wayne A. Shamblin

ALPI 6 P 16,984 R

6582

1224 7590 12/28/2006
CRUTSINGER & BOOTH
1601 ELM STREET
SUITE 1950
DALLAS, TX 752014744

EXAMINER

NGUYEN, TRINH T

ART UNIT

PAPER NUMBER

3644

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/28/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/605,148

Applicant(s)

SHAMBLIN, WAYNE A.

Examiner

Trinh T. Nguyen

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Decision on Petition dated 6/3/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The indicated allowability of claims 1-25 in the Examiner's Amendment dated 6/28/04 is hereby withdrawn in view of the new rejection as follows.
2. It is noted that there is no written consent to the filing the reissue application signed by all of the assignees (see MPEP § 1410.01 and 37 CFR 1.172(a)).
3. The reissue oath/declaration filed with this application is defective because of the following: the statement of at least one reissuable error being corrected is not included and the specific deficiencies in the claim language of the patented claims that define the invention too narrowly must be identified (see 37 CFR 1.175 and MPEP § 1414).
4. It is noted that the oath or declaration must identify each inventor by full name, and country of citizenship as required by 35 U.S.C. 115 and 37 CFR 1.63(a)(3). Each inventor's residence and mailing address must also be provided, if they have not been supplied in the application data sheet (ADS)(see 37 CFR 1.76). Furthermore, when filed by the assignee, the required information must be present, even if it is asserted that it is based on the last available information known to assignee ("upon information and belief").
5. In addition, the oath or declaration must properly identify at least one 35 U.S.C. 251 error being relied upon as a basis for the reissue and that it is indeed an appropriate error for reissue (see 37 CFR 1.175(a)(1)). Also, specific changes or amendments to the claims must be identified. If new claims are presented, their differences from the original claims must be pointed out (see MPEP § 1414).

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6. Furthermore, for any error corrected, which is not covered by an oath or declaration, i.e., any error corrected after the filing of all oaths and declarations currently in the reissue application, applicant must submit a supplemental oath or declaration prior to allowance stating "*Every error in the patent which was corrected in the present reissue application, and which is not covered by the prior oath(s) and/or declaration(s) submitted in this application, arose without any deceptive intention on the part of the applicant.*" (see 37 CFR 1.175(b)(1) and MPEP § 1414). Moreover, Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 CFR 1.173(b). In addition, when any substantive amendment is filed in the reissue application, which amendment otherwise places the reissue application in condition for allowance, a supplemental oath/declaration will be required. See MPEP § 1414.01.

7. Claims 8-25 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to claim subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35

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U.S.C. 251, and the broader scope of claim subject matter surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application. In this case, the reissue claims 8-25 do not include the claimed subject matter (i.e., a drive interconnected with each of the first, second, third, and fourth vertical adjustment members to adjust each at a equivalent rate and vertical spatial orientation such that a simultaneous four-point adjustment of the first and second planar members maintains the roller press in a parallel orientation with respect to the work surface) surrendered in the application for the patent upon which the present reissue is based.

8. Claims 1-25 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

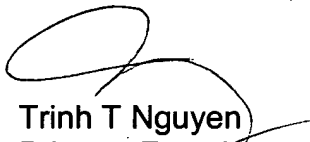
The nature of the defect(s) in the oath/declaration is set forth in the discussion above in this Office action.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T. Nguyen whose telephone number is (571) 272-6906. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M). The examiner's supervisor, Teri Luu can be reached on (571) 272-7045 for the purpose of status inquiry only. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Trinh T Nguyen
Primary Examiner
Art Unit 3644

12/19/06